Appl. No. : 09/669,805
Filed : September 26, 2000

REMARKS

Reconsideration and allowance of the above-referenced application respectfully requested

Reconsideration and allowance of the above referenced application are respectfully requested.

Applicant herewith affirms the election of the group 1 claims 2, 5, 13-22 and 25-29.

The drawings will be corrected in due course.

The disclosure stands objected to due to informalities. The brief description of the drawings is corrected herein. The first computer is corrected herein. The second computer is also corrected herein. The quick bid has clear support at the top of page 20, and the rejection based on lack of antecedent basis is respectfully traversed. Similarly, the bids whose time are reached are known is supported in that same section,. The secret bids and nonsecret bids are supported at the top of page 20 is described page 20 line 10-11. The plurality of bids at the plurality of times is clearly described page 7 line 17 through page 8 line 6.

Certain claims stand objected to based on informalities. In response, the informalities are corrected herein.

Certain claims stand rejected based on 35 USC 112, second paragraph, as being indefinite. The rejection of claim 2 states that it is unclear how to use the method. The rejection queries how the amount required to overcome the current bids determines whether the entered bid is higher than a current bid. The question and scenarios set forth on page 7 is completely besides the point. The point is, as disclosed in the

specification, secret information is stored on the local computer. The storing of the information on the local computer recites "an amount that will be required to overcome any current bids on the item". That amount cannot be viewed. The question about how five dollars can determine whether 1.75 is higher than the current bid seems to ignore the exact words of the claim.

For claim 13, the contention that the current winning amount does not allow a person to use the invention is again besides the point. Claim 13 specifies that the current winning amount is an amount that exceeds all the other bids on the item but may be less than the highest bid. How can this be the case? Very often on eBay, with proxy bidding, for example, the current amount that will win the auction is often lower than the users highest bid. For example, the user make bid of a five dollar maximum, but only a dollar is necessary to win the auction. In this case, the current winning amount is a dollar, but the current highest bid is five dollars.

In claim 25, the rejection has a point, and claim 25 is amended to include the limitations of claim 28 therein, to clarify that the bid is placed without contacting the first computer. This obviates the rejection.

The point about no-bid being positively placed is legally incorrect. The limitation recites what the computer is capable of doing. It is capable of allowing a bid to be placed. This is clearly a proper method limitation whether a bid is ever placed or not. The rejection is ignoring this limitation, which is legally impermissible.

The rejection to claim 5 which states that it is unclear what the secret is, is completely incorrect. Claim 5 states that the bids are kept secret "until a time of day and date that is specified".

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The rejection to claim 13 is respectfully traversed for similar reasons to those discussed above.

The rejection to claim 16 appears to indicate the patent office is questioning how this is done in the specification. The information is not stolen or hacked. As described in the specification, information is kept secret in the first computer and not shown to the user. The concept of secret information that is actually in the computer is well described in the specification.

The objection to claim 25 is respectfully traversed for similar reasons.

The objection to claim 26 is certainly not an oxymoron. Enabling one to determine something is far from an oxymoron.

Claims 2, 5, 25, 26 and 28 stand rejected under 35 USC 102b as allegedly being unpatentable over Ebay's proxy bidding, herein "Ebay".

Initially, the statement that patentability is determined without respect to recited information is against all law on the subject. The patent office is not entitled to ignore any claim limitation, whether it is the method steps or the information in the database. Information in the database that is recited in the claim must be given patentable weight. The law is clear on the subject: the patent office is not entitled to ignore any limitations which are in the claim.

In rejecting claim 2, the rejection's interpretation of what eBay does, does not properly consider the limitations of the claim. Information is stored on the second computer about an amount that will be required to overcome any current bids on the item. EBay does not currently store that kind of information. EBay may store

information about what the next bid increment will be, but that did information does not say anything about the amount that will be required to overcome any current bids on the item.

An agent program is certainly used by eBay, but the rejection completely ignores claim 5's limitation of time of day and date. This is completely incorrect. The rejection to claim 22 is similarly respectfully traversed. EBay does not currently store secret information.

Similarly, the rejection to claim 25 is incorrect. EBay does not currently store secret information. The scenario outlined at the bottom of page 13 is entirely beside the point. EBay does not currently store secret information. EBay has no way of determining whether an entered bid is higher than the secret maximum bid. Therefore, claim 25 is patentable.

Claims 13-17 and 21 stand rejected based on eBay in view of Hartmann. This contention remains respectfully traversed. The limitations of the eBay reference have been extensively discussed above. Nowhere does eBay teach or suggest a quick bid. Moreover, and with all due respect, Hartmann teaches a system of a quick item purchase, which teaches nothing about a quick auction win. While quick purchase may sound like a quick auction win, it is very different. Claims 13 recites features which are specific to an auction, and which would not be used in a one click order scenario. In a one click order scenario there is a an established exact price. The single click of Hartmann puts together that established price with user information and processes the order. A one click auction, on the other hand, requires actually determining the price

using ending the auction. Hartmann teaches nothing about how to do that part. Nothing in eBay teaches how to establish that price and keep secret that price.

A one click end to an auction is quite simply antithetical to any established conventional teaching in the art. A typical auction attempts to find the highest possible price for the item. A one click end to an auction goes against that established wisdom. Therefore, a person having ordinary skill in the art would not be motivated to combine Hartmann with eBay. Even if one wanted to make that combination, one would obtain no guidance on how to do so. Therefore, claim 13 should be allowable along with the claims which depend therefrom.

Claims 17 should be even further allowable, as it defines an extra fee beyond that which would be charged for only nonsecret items. The statement that the claim does not recite any method steps is contrary to the law which requires that the patent office consider all elements of the claim. Here, the patent office has simply ignored this element.

Claims 18-20 and 29 similarly stand rejected based on eBay in view of Hartmann. This is even further respectfully traversed. Nothing in Hartmann teaches or suggests how a bid could be sent to a server with one click. Nothing in eBay teaches or suggest this either. The rejection is entirely based on hindsight, at nowhere is there any teaching or suggestion of sending a bid with a single click.

The lack of antecedent in claim 22 is corrected herewith to obviate the rejection thereto.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify

agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In addition, it is noted that the Patent Office has taken the administrative position that patent applications in class 705 should be examined with extraordinary scrutiny. The undersigned respectfully advances the notion that this extraordinary scrutiny to the examination is ultra vires the Patent Office's authority as an institution, denies the undersigned applicant both due process, and equal protection under the laws, and as such, is improper.

For all of these reasons, it is respectfully suggested that all of the claims should be in condition for allowance. A formal notice of allowance is hence respectfully requested.

Please charge any fees due in connection with this response, including the one month extension of time, to Deposit Account No. 50-1387.

Respectfully submitted,

Date: 10/19/05

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